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Number:

IN THE
SUPREME COURT OF THE UNITED STATES

Joseph Robinson,
PETITIONER

v.

California, Plumas County, Jeff Cunan, Garrett Olney, Ira Kaufman, William Pangman, and Gary Mcgowan,
RESPONDENTS

PETITION FOR A WRIT OF CERTIORARI
TO THE COURT OF APPEALS
FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS FOR REVIEW

Does an individual have the right to a civil remedy in an action at law for recovery of damages under the following circumstances?

- Imprisonment in state prison
- Conviction reversed on appeal for a violation of the right to counsel
- Charges dismissed or acquitted after reversal

If yes, which party is liable to Petitioner?
Olney, Kaufman, Pangman, Cunan, and/or McGowan, and/or Plumas County,
and/or California.

If no, where is Petitioner's right to counsel?

LIST OF PARTIES

Petitioner Joseph Robinson is an individual.

Respondents:
California is one of the United States.
Plumas County is in California.
Garrett Olney, Ira Kaufman, and William Pangman are individuals who acted as judges for California.
Jeff Cunan and Gary McGowan are individuals who acted as prosecutors for Plumas County and California.

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STATEMENT OF JURISDICTION

- On February 18, 2007, the Ninth Circuit rendered the judgment this petition seeks to review.
- On March 10, 2007, Petitioner filed a petition for a rehearing en banc in the Ninth Circuit.
- On May 7, 2007, a rehearing en banc was denied.
- On May 30, 2007, Petitioner served this petition for a writ of certiorari in this Supreme Court.

The United States Constitution and Supreme Court Rule 10[C] confer jurisdiction on this Court to review the judgment in question on a petition for writ of certiorari because it conflicts with a relevant decision of this Court, a Constitutional provision and equity.

This Court should review this judgment because it affects every body in the United States who is or may be a defendant in a criminal case in a state court.

CONSTITUTIONAL PROVISION

Sixth Amendment to the United States Constitution

"In all criminal prosecutions, the accused shall enjoy the right.....to have the assistance of counsel for his defense."

SUPREME COURT RULE 10(C)

The Ninth Circuit decided that an individual who has been wrongfully convicted and imprisoned in a state due to violation of the right to the assistance of counsel does not have a right to a civil remedy because judges, prosecutors, and states are immune from civil liability. This decision conflicts with a Constitutional provision, relevant decision of this Court, common sense, equity, nature and civilization.

- Constitutional Provision: Sixth Amendment
- Relevant decision of this Court:
  Gideon v Wainwright

A defendant in a criminal case in a state court has the right to the assistance of counsel, and the state must provide an attorney for any defendant who wants an attorney and cannot afford an attorney.

- Common Sense: *Ubi jus ibi remedium.*
  There is no right without a remedy.
- Equity: *Æquitas est perfecta quædam ratio quæ jus scriptum interpretatur et emendat; nulla scriptura comprehensa, sed sola ratione consistens.*

Equity is a sort of perfect reason which interprets and amends written law, comprehended in no code, but consistent with reason alone.

- Nature: *Jura naturæ sunt immutabilia.*

The laws of nature are unchangeable. People who have been intentionally, wrongfully, grievously injured by known parties always, in all places, and in all times, demand a remedy.

- Civilization: The basis of civilization is the civil remedy. Its purpose is to avoid the uncivil remedy.

PLEA FOR THE PROTECTION OF THIS SUPREME COURT

Petitioner now comes before this Honorable Court and requests that this Court and its Honorable Judges advocate for and protect his Constitutional rights by providing the remedy sought in this petition because Defendants Olney, Kaufman, Pangman, McGowan, and Cunan wrongfully convicted and imprisoned him through knowing violation of his right to counsel while California caused, allowed and condoned this felony.

THE FACTS - FALSE IMPRISONMENT

The following facts constitute false imprisonment and are indisputable.

1. On July 31, 2001, Defendants convicted and imprisoned Petitioner.
2. On February 18, 2003, California State Prison paroled Petitioner after 567 days of post-conviction imprisonment.
3. On March 18, 2003, the California Third District Court of Appeal reversed Petitioner's conviction because respondents violated his right to counsel.
4. On May 22, 2003, the Appellate Court remitted Petitioner's case back to the Plumas County Court.
5. On September 3, 2003, the Defendants dismissed all charges against Petitioner, with prejudice.

The appended statement of 647 facts proves beyond all reasonable doubt the malicious intent and conspiracy of Olney, Kaufman, Pangman, Cunan and McGowan.

CIVIL REMEDY

If there is no civil remedy for a wrongful conviction and imprisonment caused by a violation of right to the assistance of counsel, there is no right to counsel.

Petitioner first sought a civil remedy in the United States District Court for the Eastern District of California, but California, the prosecutors and judges all claimed immunity from civil liability, and Judge Burrell ignored equity by upholding their claim of immunity while ruling Plumas County is not liable.

Petitioner then appealed in the Ninth Circuit for a civil remedy, but the three-judge panel ignored equity and ruled that he is not entitled to a civil remedy because prosecutors, judges and states are immune from civil liability. Petitioner then petitioned for, but was denied, an en banc rehearing in the Ninth Circuit.

This Ninth Circuit decision means that prosecutors and judges and states are immune from civil liability no matter how outrageous, unlawful and harmful their conduct and that people who have been wrongfully imprisoned because of violation of the right to counsel do not have a right to a civil remedy in a court of law. If there is no civil remedy for the injury caused by a violation of the right to counsel, the Sixth Amendment has been abolished.

This unlawful and inequitable Ninth Circuit decision harms everybody who is, or may be, or may need, a defendant in a criminal case.

ARGUMENT

When intentionally, wrongfully, grievously injured, people always have, do now, and always will, demand a remedy. This is human nature. Civilization is the substitution of a civil remedy for an uncivil remedy.

In the American judicial system no more serious threat to personal liberty can be imagined than corrupt state judges and prosecutors conspiring and acting together for a private purpose other than the pursuit of justice to unlawfully convict and falsely imprison an individual accused of a crime.

Clothed with the power of their state and authorized to pass judgment on every aspect of due process, judges and prosecutors conspiring and acting together have the opportunity to deprive people of life, liberty and property in complete disregard of the evidence, equity, state law and the United States Constitution.

The injuries inflicted upon the wrongfully convicted and imprisoned have always been severe and enduring, even terminal, but now, due to judicial invention and expansion of "harmless error" and "judicial immunity" they have become epidemic as state judges and prosecutors feel free to violate due process with intent to unlawfully convict and falsely imprison people because they believe they have harmless error as a shield from appellate reversal for their lesser violations of due process and immunity as a shield from civil liability for even their flagrant, egregious, intentional, conspiratorial, criminal violations of due process.

Judges and prosecutors should not be immune from civil liability under all circumstances, no matter how outrageous their conduct, but, if they are, then the state must pay when the judges and prosecutors wrongfully imprison an individual by violating the Constitutional right to the assistance of counsel.

In three separate hearings in a period of six weeks the three Plumas County Judges, Olney, Kaufman and Pangman, acted with the obvious agreement of the two Prosecutors, Cunan and McGowan, to intentionally violate Petitioner's right to counsel by refusing to appoint counsel for Petitioner for reasons they all knew to be without support in California law.

In all three hearings, all five of these court officers knowingly violated California law by allowing the prosecutors to stay in the courtroom during financial eligibility hearings that they knew must be in camera.

Cunan and Pangman knowingly violated California Penal Code Section 866.5 by examining Petitioner at the preliminary hearing without counsel or a waiver of counsel. During this examination, Petitioner admitted that he cultivated marijuana, then stated the facts, equity and California law that justified his production of marijuana for people who had lawful right and authority to obtain and use marijuana for medical purposes, but not the wherewithal to produce it.

The California Third District Court of Appeal stated that the conduct of the Plumas County Court Officers "violated all the rules of fair play".

At the trial, Cunan and Olney, over Petitioner's written motions and objections, knowingly violated California law by refusing to instruct the jury on justification, preventing Petitioner from presenting any justification evidence or law to the jury, and then giving the jury Petitioner's unlawfully obtained, truncated preliminary hearing testimony, with Petitioner's admissions about cultivating marijuana, but without the law and facts which justified his acts in California, (state which has legislation that recognizes marijuana is medicine), and then instructing the jury that Petitioner's truncated justification testimony was a confession.

Before the trial, Cunan and Olney offered Petitioner bail pending appeal if Robinson would waive his right to a jury trial, allowing Olney to decide the facts. Petitioner exercised his right to a jury trial. After conviction, before sentencing, Petitioner requested bail pending appeal. Cunan and Olney informed Petitioner that they would not release Petitioner on bail pending appeal because Petitioner exercised right to a jury trial.

Olney, Kaufman, Pangman, Cunan and McGowan and/or California and/or some other person must be held liable to Petitioner for the 567 days of post-conviction incarceration because the aforementioned individuals violated Petitioner's right to counsel to wrongfully convict and imprison Petitioner, and they acted knowingly, willingly and maliciously with agreement and intent to wrongfully convict and imprison Petitioner.

Whatever the motive for their violation of Petitioner's right to counsel, Petitioner is entitled to a civil remedy for the 567 days of post-conviction imprisonment. If the aforementioned individuals are immune from civil liability in this case, then California or Plumas County or some other person must compensate Petitioner for the 567 days of wrongful imprisonment.

It is not fair or just to imprison Petitioner without a lawful conviction and without fair compensation. Wrongfully convicted and imprisoned people have the right to monetary compensation where there has been appellate court reversal of the conviction caused by a violation of the right to counsel and subsequent dismissal of all charges with prejudice. If judges and prosecutors are immune from civil liability under all circumstances no matter how outrageous their conduct, California, Plumas County, or some other person must be liable to Petitioner in a civil remedy for 567 days of wrongful imprisonment.

Petitioner could not remove to a United States Court to prevent or stop the violation of his right to counsel, wrongful conviction or wrongful imprisonment and the state appeal that reversed the wrongful conviction was not speedy or adequate enough to prevent the wrongful imprisonment. In spite of the facts and Petitioner's numerous and persistent administrative and criminal complaints, Olney, Kaufman, Pangman, Cunan and McGowan were not prosecuted, did not lose their jobs, and were not reprimanded or even investigated.

Where is Petitioner's right to counsel?

The only civil remedy available to Petitioner in this matter is this case. If this Court rules Olney, Kaufman, Pangman, McGowan, and Cunan, and California, and Plumas County, and all other persons, are immune from civil liability in this case, this is ruling that people who have been imprisoned without a lawful conviction due to violation of their Sixth Amendment right to counsel do not have the right to a civil remedy, which is not only contrary to the rudimentary demands of justice, but destructive of the guarantee of the right to the assistance of counsel. If there is no civil remedy in a United States Court for a wrongful imprisonment caused by a violation of the right to counsel, the Sixth Amendment right to counsel has been abolished.

A ruling against a civil remedy for Petitioner in this case hurts every body in our nation by abolishing the right to counsel and all other Sixth Amendment provisions, whereas a ruling that California, and/or Olney, Kaufman, Pangman, McGowan, and Cunan, and/or some other person is liable to Petitioner in these narrow circumstances of conviction, imprisonment, appellate reversal for violation of the right to counsel, subsequent dismissal or acquittal of all charges, affects only Petitioner because there have been few reversals for violation of the right to counsel in our state courts since Gideon v Wainwright in 1963, the vast majority of these were reconvicted at a retrial, and, if this Court rules Petitioner has a right to civil remedy in this case, these narrow circumstances of imprisonment, reversal of conviction for a violation of the right to counsel, and subsequent dismissal or acquittal of all charges will happen even more rarely, if ever, in the future.

CONCLUSION

This Court has the duty to enforce Petitioner's right to counsel by holding Olney, Kaufman, Pangman, Cunan, and/or McGowan, and/or California, and/or Plumas County, and/or some other person liable to Petitioner.

The Sixth Amendment of the Constitution, common sense, equity, nature and civilization demand a civil remedy for Petitioner rather than immunity for the court officers, California and all other persons.

The way to balance justice with judicial, prosecutorial and state immunity where there has been a wrongful imprisonment caused by a violation of the right to counsel, and the court officers who violated the right to counsel have judicial and prosecutorial immunity, is to hold the state liable to the injured party for a civil remedy in a court of law.

A civil remedy in a court of law for the individual who has been intentionally, wrongfully, grievously injured in extremely narrow circumstances by state judges and prosecutors is far more important than immunity for the state, the judges and the prosecutors.

That remedy has already been provided by Congress in Title 42 U.S.C., Sections 1983 and 1985. Petitioner requests that this Supreme Court take judicial notice of the wording of these two statutes, which clearly states in 1983 that <u>every</u> person shall be liable to the injured party and in 1985 that the injured party shall have an action at law for the recovery of damages against <u>any</u> of the conspirators.

Title 42 U.S.C. Section 1983

Every person who, under color or any statute of any State subjects any citizen of the United States to the deprivation of any rights secured by the Constitution shall be liable to the party injured in an action at law.

Title 42 U.S.C. Section 1985

If two or more persons in any State conspire for the purpose of depriving any person of the equal protection of the laws, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, the party so injured or deprived may have an action for recovery of damages occasioned by such injury or deprivation against any one or more of the conspirators.

Congress said what they meant and meant what they said. This wording includes prosecutors and judges. If Congress had intended to exclude prosecutors and judges, they could and would have included the phrase "except prosecutors and judges" in 1983 and 1985.

Petitioner further requests that this Supreme Court take judicial notice, that debates in both houses of Congress prove that the senators and representatives were aware that the wording of 1983 and 1985 included judges.

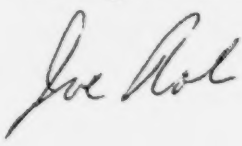
Title 42 U.S.C. Sections 1983 and 1985, include both judges and prosecutors, convoluted sophistry of prior Supreme Courts notwithstanding. Petitioner requests that this Supreme Court reconsider 1983 and 1985 from the perspectives of Congressional wording and intent and equity.

PRAYER FOR RELIEF

Petitioner requests that this Court rule that Kaufman, Olney, Pangman, Cunan and McGowan, or California, or Plumas County, or some other person is liable to Petitioner under United Sates Code Title 42, Sections 1983 and 1985, or some other law.

I declare under penalty of perjury that the foregoing is true and correct.

Date: May 30, 2007 Joseph Robinson



PROOF OF SERVICE

I, Joseph Robinson, hereby declare that I am over the age of 18 years and that I am a party to within entitled cause of action, and, further, that on the date below I served the following documents with this proof of service by post paid first-class United States Mail in a sealed envelope.

PETITION FOR WRIT OF CERTIORARI
APPENDIX: STATEMENT OF FACTS

To the following addresses:

State of California
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Sacramento, CA 94244-2550

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Garrett Olney
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Quincy, CA 95971

Ira Kaufman
Plumas County Superior Court
520 Main Street; Room 304
Quincy, CA, 95971

Porter, Scott, Weiberg & Delehant
Attention: Terrence Cassidy
P.O. Box 255428
Sacramento, CA 95865

Supreme Court of the United States
Office of the Clerk
1 First Street, N.E.
Washington, DC 20543

Originals and
Forty Copies

Further, I declare under penalty of perjury that the foregoing is true and correct and that the aforementioned documents were mailed as above described.

Date: May 30, 2007

Joseph Robinson